

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Rafe Dearl Ramsey v. Tuolumne County Sheriff's Office, et al.

Ramsey v. Tuolumne County Sheriff's Office · No. 1:24-cv-00650-FRS (BAM) (PC) · Decided January 14,
2026

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RAFE DEARL RAMSEY, Case No. 1:24-cv-00650-FRS (BAM) (PC) 12
Plaintiff, ORDER DISCHARGING ORDER TO SHOW CAUSE 13 v. (ECF No. 9) 14
TUOLUMNE COUNTY SHERIFF'S ORDER DIRECTING CLERK OF COURT TO OFFICE, et
al., RANDOMLY ASSIGN DISTRICT JUDGE 15 Defendants. FINDINGS AND
RECOMMENDATIONS 16 REGARDING DISMISSAL OF ACTION FOR FAILURE TO
PROSECUTE 17 FOURTEEN (14) DAY DEADLINE 18 19 I. Background 20 Plaintiff Rafe
Dearl Ramsey ("Plaintiff") is a county jail inmate proceeding pro se and in 21 forma pauperis in
this civil rights action pursuant to 42 U.S.C. § 1983.

This matter was referred 22 to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 23 On July 11, 2024, the Court issued an order requiring Plaintiff to show
cause why this 24 action should not be dismissed for failure to exhaust administrative remedies.
(ECF No. 9.)

On 25 July 29, 2024, Plaintiff filed a response to the order to show cause. (ECF No. 10.) 26 On
October 6, 2025, this matter was reassigned from Magistrate Judge Gary S. Austin to 27
Magistrate Judge Erica P. Grosjean for all further proceedings. (ECF No. 11.)

On October 22, 28 2025, the Court's reassignment order was returned as "Undeliverable, RTS –
Return to Sender, 1 No Such Street, Unable to Forward." 2 On January 6, 2026, this matter was
temporarily assigned to Fresno Magistrate Judge 3 (FRS) and temporarily referred to Recalled
Magistrate Judge Barbara A. McAuliffe. (ECF No. 4 12.)

On January 7, 2026, the temporary assignment order was returned as "Undeliverable, RTS, 5
Refused, Unable to Forward." 6 Plaintiff has not filed a notice of change of address or otherwise
communicated with the 7 Court. 8 II. Order to Show Cause Re: Exhaustion of Administrative
Remedies 9 Pursuant to the Prison Litigation Reform Act of 1996, "[n]o action shall be brought
with 10 respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a
prisoner 11 confined in any jail, prison, or other correctional facility until such administrative
remedies as are 12 available are exhausted." 42 U.S.C. § 1997e(a).

Prisoners are required to exhaust the available 13 administrative remedies prior to filing suit. *Jones v. Bock*, 549 U.S. 199, 211 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1199–1201 (9th Cir. 2002). Exhaustion is required regardless of the 15 relief sought by the prisoner and regardless of the relief offered by the process, *Booth v. Churner*, 16 532 U.S. 731, 741 (2001), and the exhaustion requirement applies to all suits relating to prison 17 life, *Porter v. Nussle*, 435 U.S. 516, 532 (2002).

18 In rare cases where a failure to exhaust is clear from the face of the complaint, it may be 19 dismissed for failure to state a claim. See, e.g., *Albino v. Baca*, 747 F.3d 1162, 1169 (9th Cir. 20 2014); *Medina v. Sacramento Cty. Sheriff's Dep't*, No. 2:16-cv-0765 AC P, 2016 WL 6038181, at 21 *3 (E.D. Cal. Oct. 14, 2016) (“When it is clear from the face of the complaint and any attached 22 exhibits that a plaintiff did not exhaust his available administrative remedies before commencing 23 an action, the action may be dismissed on screening for failure to state a claim.”); *Lucas v. Dir. of 24 Dep't. of Corrs.*, 2015 WL 1014037, at *4 (E.D.

Cal. Mar. 6, 2015) (relying on *Albino* and 25 dismissing complaint without prejudice on screening due to plaintiff's failure to exhaust 26 administrative remedies prior to filing suit). 27 In the complaint, Plaintiff states that while there are administrative remedies (grievance 28 procedures or administrative appeals) available at his institution, he did not submit a request for 1 administrative relief or appeal his request for relief to the highest level.

(ECF No. 1, p. 3.) 2 Plaintiff states that he did not do so “[b]ecause filing a medical grievance would yield no results, 3 as I have already resolved the medical issue myself.” (*Id.*) 4 In his response to the Court's order to show cause, Plaintiff further explains that while he 5 did request a medical grievance form, his request was either forgotten or neglected.

(ECF No. 6 10.) Thus, although medical grievances serve more or less as a supplemental medical request that 7 will only result in an attempt to resolve the medical issue, and Plaintiff no longer had a medical 8 issue, Plaintiff asserts that he did notify jail staff and request a grievance form anyway, but was 9 ignored. (*Id.*) 10 Based on Plaintiff's assertions, it is not clear from the face of the complaint that Plaintiff 11 failed to exhaust administrative remedies prior to filing suit.¹ While exhaustion is required 12 regardless of the relief sought by the prisoner and regardless of the relief offered by the process, 13 *Booth v. Churner*, 532 U.S. 731, 741 (2001), Plaintiff appears to allege that the grievance process 14 was unavailable to him because his request for a grievance form was ignored.

As such, the Court 15 finds it appropriate to discharge the order to show cause. 16 III. Failure to Update Address 17 Plaintiff is required to keep the Court apprised of his current address at all times. Local 18 Rule 183(b) provides: 19 Address Changes. A party appearing in propria persona shall keep the Court and 20 opposing parties advised as to his or her current address.

If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and 21 if such plaintiff fails to notify the Court and opposing parties within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice 22 for failure to prosecute. 23 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to 24 prosecute.2 25 /// 26 1 The instant order does not preclude the filing of a later dispositive motion on the issue of exhaustion of administrative remedies.

27 2 Courts may dismiss actions sua sponte under Rule 41(b) based on the plaintiff's failure to prosecute. Hells Canyon 28 Pres. Council v. U. S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (citation omitted). 1 Plaintiff's address change was due no later than November 21, 2025. Plaintiff has failed 2 to file a change of address and he has not otherwise been in contact with the Court. "In 3 determining whether to dismiss an action for lack of prosecution, the district court is required to 4 weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the 5 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 6 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." 7 Carey v. King, 856 F.2d 1439, 1440 (9th Cir.

1988) (internal quotation marks and citation 8 omitted); accord Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010); In re 9 Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006). 10 These factors guide a court in deciding what to do, and are not conditions that must be met in 11 order for a court to take action.

In re PPA, 460 F.3d at 1226 (citation omitted). 12 Given Plaintiff's failure to respond to this Court's order, the expeditious resolution of 13 litigation and the Court's need to manage its docket weigh in favor of dismissal. Id. at 1227. 14 Plaintiff is proceeding in forma pauperis in this action, making monetary sanctions of little use, 15 and the preclusion of evidence or witnesses is likely to have no effect given that Plaintiff has 16 ceased litigating his case and updating his address.

More importantly, given the Court's apparent 17 inability to communicate with Plaintiff, there are no other reasonable alternatives available to 18 address Plaintiff's failure to prosecute this action and his failure to apprise the Court of his 19 current address. Id. at 1228–29; Carey, 856 F.2d at 1441. 20 IV. Order and Recommendation 21 Accordingly, IT IS HEREBY ORDERED as follows: 22 1.

The July 11, 2024 order to show cause, (ECF No. 9), is DISCHARGED; and 23 2. The Clerk of the Court is DIRECTED to randomly assign a district judge to this action. 24 * * * 25 Furthermore, the Court HEREBY RECOMMENDS that this action be dismissed, without 26 prejudice, based on Plaintiff's failure to prosecute. Fed. R. Civ. P. 41(b); Local Rule 183(b). 27 These Findings and Recommendations will be submitted to the United States District 28 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).

Within 1 fourteen (14) days after being served with these Findings and Recommendations, the parties may 2 file written objections with the court. The document should be captioned “Objections to 3 Magistrate Judge’s Findings and Recommendations.” Objections, if any, shall not exceed 4 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page 5 number if already in the record before the Court.

Any pages filed in excess of the 15-page 6 limit may not be considered. The parties are advised that failure to file objections within the 7 specified time may result in the waiver of the “right to challenge the magistrate’s factual 8 findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir.

1991)). 10 IT IS SO ORDERED. 11 12 Dated: January 14, 2026 /s/ Barbara A. McAuliffe _
UNITED STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28